

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
OFFICE OF CAMPAIGN FINANCE

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics (Board), at its regular meeting held April 5, 2006, took final action to adopt the following amendments to Chapter 30, "Campaign Finance Operations," 3 DCMR §§3000-3002, 3004, 3006, 3008-3011, 3013, and 3017 (49 DCR 2731: March 22, 2002); Chapter 31, "Lobbying," 3 DCMR §§3101-3102 (49 DCR 2731: March 22, 2002); Chapter 32, "Financial Disclosure," 3 DCMR §§3200-3202 (49 DCR 2731: March 22, 2002); Chapter 33, "Conflict of Interest," 3 DCMR §§3300 et seq. (49 DCR 2731: March 22, 2002); Chapter 34, "Campaign Finance Record Keeping," 3 DCMR §§3400-3402 (47 DCR 2171: March 24, 2000); Chapter 37, "Investigations," 3 DCMR §§3704 and 3710-3712 (49 DCR 2731: March 22, 2002); and Chapter 99, "Definitions," 3 DCMR §9900.1, in not less than thirty (30) days from the date of publication of this Notice in the D.C. Register.

The proposed amendments represent updates and changes to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies campaign finance, lobbying, financial disclosure, conflict of interest and record keeping procedures to provide the general public and OCF filers with a better understanding of the agency processes. Moreover, amendments were incorporated to align the regulations with redesigned OCF applications and forms, especially those listed on the website at www.ocf.dc.gov.

The amendment to §3001.3 refers to D.C. Law 16-0034, the "Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005." The rule will alert the "exploratory" or "testing the waters" candidate to file an informational report with OCF.

Also, the amendments to Chapter 32, the proposed "Conflict of Interest and Use of Government Resources for Campaign-Related Purposes," incorporate regulations spawned by D.C. Law 14-36, the "Campaign Finance Amendment Act of 2001," which was enacted on October 13, 2001. The proposed rules explain the prohibitions on the use of District government resources for campaign related activities.

AMEND §3000, "Organization of Political Committees," by deleting current subsections 3000.13-3000.18, and substituting the following new subsections:

- 3000.13 When either the office of chairperson or treasurer of a political committee, pursuant to 3 D.C.M.R. §3000.12, is vacant, the political committee shall perform the following:
- (a) Inform the alternate chairperson or treasurer to serve in the interim, upon receipt of the resignation, if applicable, of the affected officer;

- (b) Designate a successor chairperson or treasurer, within five (5) days of the vacancy; and
 - (c) Amend its statement of organization within 10 days of the designation of the successor; Provided, that the successor officer agrees to accept the position.
- 3000.14 A contribution or expenditure shall not be accepted or made by, or on behalf, of a political committee under the following conditions:
 - (a) When the office of treasurer is vacant; and
 - (b) No other person has been designated and has agreed to perform the functions of treasurer.
- 3000.15 Each expenditure made for, or on behalf, of a political committee shall be authorized only by the following:
 - (a) Chairperson;
 - (b) Treasurer; or
 - (c) Their designated agent, as listed at §3000.1.
- 3000.16 A chairperson shall be required to file the following:
 - (a) A statement of acceptance, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of assuming the office; and
 - (b) A statement of withdrawal, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of vacating the office.
- 3000.17 A treasurer shall be required to file the following:
 - (a) A statement of acceptance, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of assuming the office;
 - (b) Periodic R&E Reports, under §3008, signed by the treasurer or, if unavailable, the designated agent, under §3000.1; Provided, that the treasurer shall be responsible for all Reports and statements due to the Director during the treasurer's tenure; and
 - (c) A statement of withdrawal on a form prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of vacating the office.

3000.18 A person shall not serve as chairperson and treasurer of a political committee simultaneously, except the following: (a) A candidate; or (b) A proposer or opponent of an initiative, referendum or recall measure or charter amendment.

3000.19 Each political committee shall amend its Statement of Organization within ten (10) days of any change in information previously reported on its Statement of Organization.

AMEND §3001, “Exploratory, Draft, or “Testing the Waters” Committees,” by deleting current subsection 3001.3 and substituting the following new subsection:

3001.3 Each committee shall be required to file informational reports, in accordance with §3008.

AMEND §3002, “Candidate Status,” by deleting current subsection 3002.5, and substituting the following new subsection:

3002.5 An Advisory Neighborhood Commissioner (ANC) Summary Financial Statement shall be filed no later than thirty (30) days after the certification of the election results by the following:

- (a) ANC candidates, pursuant to §1616, who qualified for the ballot by the write-in process;
- (b) ANC candidates, pursuant to §§1608 and 1609, who qualified for the ballot by the nominating petition process;
- (c) ANC candidates who accepted contributions or made expenditures; and did not qualify for the ballot, pursuant to §§1608, 1609 and 1616; and
- (d) ANC candidates who qualified as candidates for selection in the ANC vacancy filling process, pursuant to §1310.

AMEND §3004, “Candidate Waiver from Filing and Reporting Requirements,” by deleting current subsection 3004.4, and substituting the following new subsection:

3004.4 A candidate may make an expenditure from personal funds to the candidate’s designated principal campaign committee, which expenditure shall then be reported by the principal campaign committee as a contribution received; and, as a loan, when accompanied by a written instrument attesting thereto, pursuant to §3011.7.

AMEND §3006, “Designation of Existing Political Committee,” by deleting current subsection 3006.1, and substituting the following new subsection:

- 3006.1 Except as provided in §3006.2, an existing political committee may be designated as the principal campaign committee of a candidate if the existing political committee meets the following conditions:
- (a) The Statement of Organization of the existing political committee indicates that the existing political committee is an unauthorized committee, pursuant to §3000.7, including any independent or political action committee; and
 - (b) R&E Reports of the existing political committee are current.

AMEND §3008, "Financial Reports and Statements," by deleting the section in its entirety, and adding the following new section:

- 3008 FINANCIAL REPORTS AND STATEMENTS
- 3008.1 Candidates, political committees, citizen-service programs and Statehood funds and their treasurers shall make best efforts to obtain, report and maintain information required under Chapter 34 of this title.
- 3008.2 With the exception of ANCs, all contributions, expenditures, debts, contracts, and agreements shall be reported on separate schedules in the R&E Report, in the following manner:
- (a) On a form, prescribed by the Director; or
 - (b) In the format consistent with the form filed under §3008.2(a).
- 3008.3 The R&E Report may be filed by computer diskette furnished by the Director, as an alternative method of electronic filing; Provided, that the original R&E Report, verified by the treasurer, is also filed.
- 3008.4 Each contribution, rebate, refund, or any other receipt of \$15 or more shall be reported.
- 3008.5 All receipts for contributions including in-kind contributions, ticket purchases, dividend, interest, offsets to operating expenditures, including rebates and refunds, transfers, and in the case of citizen-services programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule A in accordance with the Instructions for preparing the R&E Report.
- 3008.6 All receipts for loans made or guaranteed by the candidate or the committee, or owed by the candidate or the committee, shall be itemized and reported on the appropriate sub-schedule of Schedule E.

- 3008.7 Partnership contributions, under §3011.15, shall be itemized and reported on Schedule A, in accordance with the instructions for preparing the R&E Report, in the following manner:
- (a) In the name of the partnership; and
 - (b) In the name of each contributing partner.
- 3008.8 All expenditures for personal services, media, transfers, other items or services, in-kind contributions, refunds of contributions, independent expenditures, offsets to receipts, and in the case of citizen-services programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule B in accordance with the Instructions for preparing the R&E Report.
- 3008.9 Each in-kind contribution, under §§3008.6 and 3008.9, shall be assessed at the current local fair market value at the time of the contribution, and shall be reported on the appropriate sub-schedule of Schedules A and B.
- 3008.10 All net proceeds for any mass sale and collection shall be itemized and reported on Schedule C in accordance with the instructions for preparing the R&E Report.
- 3008.11 All debts and obligations, excluding loans, except in the case of citizen-services programs, shall be itemized and reported on Schedule D in accordance with the instructions for preparing the R&E Report.
- 3008.12 All loans, except in the case of citizen-services programs, shall be itemized and reported on the appropriate sub-schedule of Schedule E in accordance with the instructions for preparing the R&E Report.
- 3008.13 The R&E Report shall be complete, as of five (5) days prior to the date of any filing, under §3017; Provided, that any contribution of two hundred dollars (\$200) or more received after any closing date, under §3017, for the last R&E Report required to be filed prior to an election, shall be reported within 24 hours after its receipt.
- 3008.14 Financial transactions undertaken by credit card shall be reported on the R&E Report in accordance with the instructions for preparing the R&E Report in the following manner:
- (a) Contributions shall be reported for the date upon which the authorized transaction is received;
 - (b) The full amount authorized by the contributor as a contribution shall be reported by the candidate or committee;

- (c) Any service charge(s) deducted by the credit card issuer shall be reported as expenditures made by the candidate or committee as of the date when notified of the deductions; and
 - (d) Any discount from the normal service charge authorized by the credit card issuer shall constitute an in-kind contribution, under §3008.4, from the issuer and shall be reported as an in-kind contribution.
- 3008.15 Every person, other than a political committee, who makes independent expenditures aggregating in excess of fifty dollars (\$50) during a calendar year, shall file an Independent Expenditure Report with the Director, at the times specified in §3017, for any period during which the expenditure occurred.
- 3008.16 The ANC Summary Financial Statement filed by an ANC candidate, under §3002.5, shall include the following:
 - (a) Total campaign receipts and expenditures relative to an election, including funds received and expended by the candidate;
 - (b) Certification that the candidate did not receive contributions from any person, other than the candidate, in excess of twenty-five dollars (\$25);
 - (c) Certification that the candidate did not receive any contributions from any person or make any expenditures, including from or by the candidate, to support the candidate's election to office; and
 - (d) The disposal of surplus contributions, if any.

AMEND §3009, "Reports of Initiative, Referendum, Recall and Proposed Charter Amendment Committees," by deleting the section in its entirety, and adding the following new section:

- 3009 **REPORTS OF INITIATIVE, REFERENDUM, RECALL AND PROPOSED CHARTER AMENDMENT COMMITTEES**
- 3009.1 Each committee supporting or opposing an initiative, referendum, recall, or proposed charter amendment shall file R&E Reports during the consideration of a measure for ballot placement, for any one election.
- 3009.2 The Office of Campaign Finance shall prepare the following:
 - (a) A schedule of dates based upon the complete period allowed for qualification of a measure for ballot placement by which R&E Reports are due; and

- (b) A revised schedule of dates based upon actual completion of tasks by which R&E Reports are due, when necessary.

3009.3 R&E Reports shall be filed in accordance with the following schedule:

- (a) On or before the commencement of the process for initiative, referendum, recall or proposed charter amendment, or
- (b) In the case of an opponent, ten (10) days after making an expenditure or accepting a contribution in opposition to the measures;
- (c) On the tenth (10th) day of the fourth (4th) month preceding the election;
- (d) On the tenth (10th) day of the second (2nd) month preceding the election; and
- (e) Eight (8) days prior to the election.

3009.4 With the exception of contributions to retire debt and expenditures made to wind down a campaign, pursuant to §3016, contributions shall not be received, nor expenditures made to support or oppose an initiative, referendum, recall, or proposed charter amendment under the following circumstances:

- (a) After the election at which the measure is presented to the electorate; or
- (b) Upon rejection of the petition with signatures as numerically insufficient by the Board of Elections and Ethics; and
- (c) Subsequent to the exhaustion of all administrative and judicial remedies.

3009.5 Following the election, or the failure of an initiative, referendum, recall, or proposed charter amendment to qualify for ballot access, pursuant to this title, and the exhaustion of all administrative and judicial remedies, a committee shall continue to file R&E Reports on January 31st and July 31st of each year until all debts and obligations are satisfied.

3009.6 Upon satisfaction of all debts and obligations, each committee shall immediately file a final R&E Report.

3009.7 In the absence of any debts and obligations, each committee shall, within sixty (60) days following the election, perform the following acts:

- (a) Disburse any remaining funds, if any, in accordance with §3016; and
- (b) File a final R&E Report.

3009.8 A copy of each R&E Report or statement filed with the Director shall be preserved by the person filing the report or statement for a period of not less than three (3) years from the date of filing.

AMEND §3010, "Petty Cash Funds," by deleting current subsection 3010.1, and substituting the following new subsection:

3010.1 A candidate, political committee, Statehood Fund or citizen-service program may maintain a Petty Cash Fund which shall not exceed three hundred dollars (\$300) at any time.

AMEND §3011, "Limitations on Contributions," by adding the following new subsection:

3011.19 With the exception of contributions received to retire debt, contributions shall not be received or accepted after the election or defeat of a candidate for office, or where a candidate notifies the Office of Campaign Finance of the intent to terminate the candidacy.

AMEND §3013, "Limitations on the Use of Campaign Funds," by deleting current subsections 3013.2(e) and (h), substituting the following new subsections, and adding a new subsection:

3013.2 (e) Payment or reimbursement for judgments or settlements, unless litigation or agency administrative action arises directly out of the campaign activities of a candidate or principal campaign committee;

(h) Clothing, except for specialty clothing which is not suitable for everyday use, including, but not limited to, formal wear, if the attire is used in the campaign and is directly related to a campaign purpose; and

3013.3 With the exception of expenditures made to retire debt or wind down the campaign operation, campaign funds shall not be expended following the election or defeat of a candidate for office, or where a candidate notifies the Office of Campaign Finance of the intent to withdraw the candidacy, for the purpose of financing, directly or indirectly, the election campaign of a candidate.

AMEND §3017, "Filings and Deadlines," by deleting subsection 3017.7, renumbering subsection 3017.8 as 3017.9, and substituting and adding the following new subsections:

- 3017.7 All reports and statements filed in person or by first class mail shall be deemed timely filed when received by 5:30 p.m. of the prescribed filing date.
- 3017.8 All reports and statements electronically filed shall be deemed timely filed if received by midnight of the prescribed filing date; Provided, that the original paper report, verified by the treasurer, is also filed within five (5) days of the filing deadline.

AMEND §3101, "Exemption from Registration Requirements," by deleting the section in its entirety, and substituting the following section:

- 3101 EXEMPTION FROM REGISTRATION REQUIREMENTS
- 3101.1 A person shall be exempt from the registration requirements if that person serves as any of the following:
- (a) A public official, or an employee of the United States, acting in an official capacity;
 - (b) A publisher or working member of the press, radio, or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;
 - (c) Any candidate, member or member-elect of an Advisory Neighborhood Commission; or
 - (d) Any exempt organization specified in the District of Columbia tax code; Provided, that the activities of the organization do not include lobbying, and the financial result of the activities are attributed solely to the entity.
- 3101.2 Certain activities shall exempt a person from the registration requirements if that person performs any of the following acts:
- (a) Appears or presents written testimony, on his or her own behalf, or is represented by an attorney, in an informal or formal rule-making, rate-making or adjudicatory hearing before an executive agency or the Tax Assessor;
 - (b) Supplies information in response to written inquiries by an executive agency, the Council of the District of Columbia or any public official;
 - (c) Inquires only as to the status of specific actions by an executive agency or the Council of the District of Columbia;

- (d) Testifies before, or submits written testimony to, a committee of the Council of the District of Columbia, or the Council, in a proceeding for which there is a public record or testimony submitted for inclusion in the public record;
- (e) Communicates through a newspaper, television, or radio of general circulation or a publication whose primary audience is the organization's membership; or
- (f) Conveys communications, indirectly or directly, by a bona fide political party, as defined in the Campaign Finance Act.

3101.3 A person, who may be exempt from the registration requirements of this chapter, may be a registrant for other purposes under this title; Provided, that the activity of the person shall not constitute a conflict of interest.

AMEND §3102, "Activity Reports," by deleting current subsections 3102.2(e)-(h), and substituting the following subsections:

- 3102.2
- (e) Name and employment information for each official in the executive or legislative branch, compensated and any member of the official's personal staff, who was compensated in any manner by the registrant;
 - (f) Name of each official in the executive or legislative branch with whom the registrant has communicated regarding lobbying activities, in writing or orally, during the reporting period related to lobbying activities;
 - (g) The name, address and nature of business of each person whom the registrant has compensated to lobby on behalf of the registrant, and an exact accounting of the time spent and the expenses incurred; and
 - (h) A pro-rated listing of salaries paid to each lobbyist, including each in-house employee-lobbyist, based on time spent on influencing any legislative action, administrative decisions, or on each piece of local legislation.

AMEND §3200, "Applicability," by deleting current subsection 3200.1, and substituting the following subsection:

- 3200.1 A financial disclosure statement (FDS) shall be filed by the following:
- (a) Any candidate for election to public office, except the office of Advisory Neighborhood Commissioner, who, at the time of candidacy, does not occupy any such office;

- (b) All elected officials, except Advisory Neighborhood Commissioners;
- (c) Members of specific boards and commissions, pursuant to the Act;
- (d) Employees within the excepted and legal services, paid at a rate of DS-13 or above;
- (e) Employees within the management supervisory service, paid at a rate of MS-13, or above;
- (f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and
- (g) Any other public official expressly subject to the financial disclosure provisions of the Act.

AMEND §3201, "Disclosure Requirements," by deleting current subsections 3201.3-3201.4, substituting the following subsections, and adding the following new subsection:

- 3201.3 No public official, required to file a HOIDS, pursuant to §3201.2, shall earn honoraria in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the honorarium accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.4 Neither the Mayor nor the Chairman of the Council shall earn royalties in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the royalty accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.5 Public officials, and members of their immediate families, prohibited from receiving royalties, in excess of ten thousand dollars (\$10,000) in any calendar year, include the following:
 - (a) Mayor; and
 - (b) Chairman of the Council.

AMEND §3202, "Filing Requirements," by deleting the section in its entirety and adding the following new section:

3202 FILING REQUIREMENTS

- 3202.1 All FDS shall be deemed timely filed in person or by first class mail if received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year.
- 3202.2 The FDS may be filed electronically no later than 12:00 midnight of the filing deadline; Provided that, the paper filing of the FDS, verified by the public official, is filed within five (5) days of the filing deadline.
- 3202.3 The HOIDS shall be filed with the Director of Campaign Finance not later than May 15th of each year for the prior calendar year in which the public official served.
- 3202.4 All HOIDS filed in person or by first class mail shall be deemed timely filed when received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year in which the public official served.
- 3202.5 A public official shall submit an amended FDS and HOIDS within thirty (30) days after changes in any information represented on the FDS and the HOIDS.
- 3202.6 A public official may make a request of the Director, in writing, for an extension of up to thirty (30) days in which to submit the FDS and the HOIDS.
- 3202.7 The Director may extend the period of time for submission of the FDS and the HOIDS by a public official, for good cause shown.
- 3202.8 The list of public official required to file the FDS shall be published in the DC Register in April of each calendar year, and made available to the public, under Chapter 37 of this title.

AMEND Chapter 33, "Conflict of Interest," by deleting the chapter in its entirety and adding the following new chapter:

**CHAPTER 33 CONFLICT OF INTEREST AND USE OF GOVERNMENT
RESOURCES FOR CAMPAIGN-RELATED PURPOSES**

3300 APPLICABILITY

- 3300.1 A conflict of interest shall occur when a public official exerts any "effort to realize personal gain," as defined in §9900.1, through official conduct.
- 3300.2 The use of a government resource for a campaign-related purpose occurs when a person draws upon a service of the District of Columbia government for any campaign matter, pursuant to this title.

3300.3 For the purposes of conflict of interest, this chapter shall apply to the following public officials:

- (a) Any candidate for nomination for election, or election, to public office, except the office of Advisory Neighborhood Commissioner, who, at the time of candidacy, who does not occupy any such office;
- (b) All elected officials, except Advisory Neighborhood Commissioners;
- (c) Members of specific boards and commissions, pursuant to the Act;
- (d) Employees within the excepted and legal services, and paid at a rate of DS-13 or above;
- (e) Employees within the management supervisory service and paid at a rate of MS-13, or above;
- (f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and
- (g) Any other public official expressly subject to the financial disclosure provisions of the Act.

3300.4 For the purposes of the use of a government resource for a campaign-related purpose, this chapter shall apply to all persons.

3300.5 This chapter shall not prohibit a public official from voting on the following matters:

- (a) One which affects a class of persons of fifty (50) or more of which the public official is a member, and the financial gain to be realized is *de minimis*;
- (b) Compensation of the public official as authorized by law; and
- (c) Elections laws.

3300.6 This chapter shall not apply to any person who registers as a lobbyist and engages in lobbying, pursuant to §3100.

3301 PROHIBITED CONDUCT

- 3301.1 Other than that compensation provided by law for the public official, the public official shall avoid the use of the official position or office to obtain financial gain for the following:
- (a) The public official;
 - (b) Any member of the public official's household; or
 - (c) Any business with which the public official or a member of the public official's household is associated.
- 3301.2 A person shall be prohibited from offering, and a public official, or any member of a public official's household, shall be prohibited from receiving anything of value, based on the following:
- (a) Any understanding that the actions, judgment or vote of the public official would be influenced;
 - (b) Any reasonable inference that the thing of value would influence the public official in his or her discharge of duties; or
 - (c) Any reward, except for political contributions publicly reported under Chapter 30 of this title or transactions made in the ordinary course of business of the offeror.
- 3301.3 A person shall be prohibited from offering, and a public official shall be prohibited from soliciting or receiving any money for advice or assistance given in the course of or relating to the public official's employment; Provided, that the monies were lawfully received by the public official in the public official's entrusted position.
- 3301.4 A public official shall be prohibited from disclosing confidential information given in the course of or because of the entrusted position or activities of the public official which could result in financial gain for the public official or for any other person.
- 3301.5 A public official shall be prohibited from accepting an assignment to serve on a committee if its jurisdiction consists of matters in which the public official, a member of the public official's family, or any business with which the public official is associated, has any financial interest; Provided, that the public official is a member or employee of the Council or Board of Education.
- 3301.6 The Mayor and each member of the Council shall be prohibited from representing another person before any regulatory agency or District of Columbia Court while serving in office, except in the following instances:

- (a) The public official appears before such entity in their official capacity; or
- (b) A member of the Council (excluding the Chairman) licensed to practice law, appears before such entity in any matter which does not affect their official position.

3301.7 Members of boards and commissions are prohibited from appointing the following:

- (a) A member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; and
- (b) A former member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; Provided, that at least 45 days have elapsed since the termination of service to the board of commission by the former member, and the former member has followed the hiring procedures required of other applicants for the paid office or position.

3301.8 District of Columbia Government resources shall be prohibited from use to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.9 Resources of the District of Columbia Government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.10 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;

- (d) Office space;
- (e) Facilities; and
- (f) Utilities, for example, telephone, gas and electric.

3301.11 Certain public officials may express their views on a District of Columbia election, as part of their official duties; and, they include the following:

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;
- (d) The President of the Board of Education; and
- (e) Each Member of the Board of Education.

3301.12 A public official shall not act on, or decide, any matter in which there is conflict or a potential conflict, created by their financial, personal, family, business, or client interest.

3302 REMOVAL FROM INFLUENCE

3302.1 When confronted with a conflict or potential conflict of interest, a public official shall remove himself or herself from influence over actions and decisions on the matter on which there is a conflict or potential conflict.

3302.2 Removal from influence over actions and decisions shall be accomplished when the public official refrains from taking any action or making any decision that would affect or appear to affect, directly or indirectly, the matter under investigation or the conflict.

3302.3 A public official shall remove himself or herself from influence over actions and decisions for the following reasons:

- (a) When the public official has reasonable knowledge of any direct or indirect financial interest or gain which is incompatible with the discharge of duties by the public official;
- (b) When the public official would be required to take any official action on a matter when a conflict situation is created by a personal, family or client interest; or

- (c) Upon written notice from the Board or the Director that a full investigation has been initiated.

3303 NOTIFICATION OF CONFLICT OF INTEREST

3303.1 When a public official has a conflict or potential conflict of interest, that public official shall prepare a written statement describing the following:

- (a) The matter requiring action or decision; and
- (b) The nature of the potential conflict of interest with respect to such action or decision.

3303.2 The public official shall deliver a copy of the statement to the following:

- (a) The Board of Elections and Ethics, in care of its General Counsel;
- (b) The Director of the Office of Campaign Finance; and
- (c) The immediate superior or superior-designate, if any, of the public official.

3303.3 The immediate superior or superior-designate for each public official enumerated in this subsection shall include one (1) of the following:

- (a) Member of the Council – Chairman of the Council;
- (b) Chairman of the Council – Chairperson *pro tempore* or Vice-chairperson of the Council;
- (c) Member of the Board of Education – President of the Board of Education;
- (d) President of the Board of Education – Vice-president of the Board of Education;
- (e) Member of Advisory Neighborhood Commission, Board or Commissions – Chairperson or President;
- (f) Chairperson of Advisory Neighborhood Commission, Board, or Commission – Chairperson *pro tempore* or Vice-President;
- (g) Member of Board or Commissions – Chairperson or President of Board or Commission; and

- (h) Immediate staff employee of the Council and Board of Education – respective Chairperson.

3304 RECUSAL FROM CONFLICT OF INTEREST BY PUBLIC OFFICIALS

3304.1 After receipt of a statement of conflict or potential conflict of interest from a public official, the superior or superior-designate, pursuant to §3303.3, shall perform the following acts:

- (a) Cause the statement to be printed in the record of proceedings of the body of which the person is a member or employee; and
- (b) Upon request of the affected public official, excuse that public official from votes, deliberations, or other actions, as applicable, on the matter on which a conflict or potential conflict exists.

3304.2 After receipt of a statement of conflict or potential conflict of interest from a public official, the immediate superior of the public official shall reassign the matter to another employee who is not subordinate to the relieved employee; Provided, that the employee does not also have a potential conflict of interest, except for the following:

- (a) The Mayor; or
- (b) A Member of the Council.

3304.3 The public official shall excuse himself or herself from votes, deliberations and other actions on the matter on which a potential conflict exists; Provided, that the public official does not report to an immediate supervisor.

3304.4 If the public official fails to excuse himself or herself from votes, pursuant to §3304, the public official shall not vote, deliberate or act on the matter on which a conflict or potential conflict exists.

3304.5 If the public official fails to excuse himself or herself, pursuant to §3304, and votes, deliberates or acts on the matter in which a conflict or potential conflict exists, a complaint of conflict of interest under Chapter 37 of this title shall issue from one (1) of the following:

- (a) The Board of Elections and Ethics; or
- (b) The Director of the Office of Campaign Finance.

3305 INTERPRETATIVE OPINIONS

- 3305.1 Any person subject to this chapter may request a written interpretative opinion concerning the application of the Act, and Chapters 30-37 of this title.
- 3305.2 The request shall be addressed to the Director in writing.
- 3305.3 Each request shall contain the following:
- (a) The full name and address of the requestor;
 - (b) A query as to an application of the Act, and chapters 30-37 of this title, solely with respect to an actual or potential event concerning a specific or general transaction or activity of the person;
 - (c) Any related documentation.
- 3305.4 The Director shall notify the requestor in writing of the acceptance of each request.
- 3305.5 The Director shall respond in writing to each request within thirty (30) days, after it has been accepted for review by the Office of Campaign Finance.
- 3305.6 If the requestor disagrees with the interpretative opinion issued by the Director, the requestor may request an advisory opinion from the Board of Elections and Ethics, pursuant to Chapter 3 of this title.

AMEND §3400, "Recordkeeping Procedures," by deleting subsections 3400.1-3400.2, and adding the following new subsections:

- 3400.1 To ensure financial accountability, this chapter governs the recordkeeping procedures for the following:
- (a) Candidates, including candidates seeking election to an Advisory Neighborhood Commission;
 - (b) Political Committees;
 - (c) Lobbyists;
 - (d) Citizen-service programs; and
 - (e) Statehood funds.
- 3400.2 Each required filer, under §3400.1, shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures

disclosed in reports and statements filed with the Director, including the following:

- (a) Check stubs;
- (b) Bank Statements;
- (c) Canceled checks;
- (d) Contributor cards and copies of donor checks;
- (e) Deposit slips;
- (f) Invoices;
- (g) Receipts;
- (h) Contracts;
- (i) Payroll records;
- (j) Tax records;
- (k) Lease agreements;
- (l) Petty cash journals;
- (m) Ledgers; and
- (n) Vouchers.

AMEND §3401, "Expenditures," by deleting subsection 3401.4, and adding the following new subsection:

3401.4 Voided or stale-dated checks shall be handled in the following method:

- (a) Stamped "void" or made non-negotiable; and
- (b) Retained in accordance with §3400.

AMEND §3402, "Receipts," by deleting the section in its entirety, and adding the following new section:

3402 RECEIPT

- 3402.1 To fully identify the donor, receipts shall contain the following information:
- (a) Full name;
 - (b) Mailing address;
 - (c) Occupation and principal place of business, if any; and
 - (d) Date of contribution.
- 3402.2 All receipts shall be handled in the following manner:
- (a) Pre-numbered receipts shall be issued for all contributions received; and
 - (b) Receipts shall be documented by contributor cards and copies of donors' checks.
- 3402.3 Records of receipts and contributions shall be maintained to show the following:
- (a) With the exception of receipts for sales or collections, cumulative totals; and
 - (b) For sales or collections, a detailed record of receipts and expenditures.
- 3402.4 All filers shall separately identify undesignated receipts from designated receipts.

AMEND §3704, "Full Investigations," by deleting subsection 3704.4, and adding the following new subsection:

- 3704.4 The full investigation shall be conducted by evidence gathered and explored by the following:
- (a) Subpoena;
 - (b) Depositions;
 - (c) Interrogatories;
 - (d) Interviews;
 - (e) Audits;

- (f) Affidavits;
- (g) Documents; and
- (h) Other means deemed appropriate.

AMEND §3710, "Cease and Desist Orders Based on Violations," by deleting subsection 3710.1, and adding the following new subsection:

- 3710.1 Upon a determination, under §3709, that a violation has occurred, the Director may issue an order to the offending party to cease and desist the violation.

AMEND §3711, "Schedule of Fines," by renumbering duplicate subsection 3711.2 as 3711.3, deleting subsection 3711.2(w) and 3711.8, and adding the following new subsections:

- 3711.2 (w) Accepting, soliciting or giving any thing of value to influence official government actions, or where it could be inferred that the thing of value would influence the public official in the discharge of his or her duties.
- 3711.3 The aggregate of the penalties imposed under the Director's authority, under §3711.2, may not exceed \$2000 for each violation.
- 3711.8 If a party fails to pay the ordered fine, the Director may petition for enforcement of its order, within thirty (30) days of the expiration of the period provided for payment of the fine, pursuant to §3711.7, before the Board in an adversary proceeding and an open hearing, pursuant to chapter 4 of this title.

AMEND §3712, "Procedures Regarding Excess Contributions," by deleting subsection 3712.2, and adding the following new subsection:

- 3712.2 Upon a determination of excess contribution, pursuant to §3712.1, the Director shall notify the person in writing of the following:
- (a) The amount of the excess contribution;
 - (b) The expectation of repayment to the contributor of the amount equal to the excess contribution; and
 - (c) Repayment shall be accomplished within fifteen (15) days of the notice.

AMEND §9900.1, "Definitions," by adding the following new definitions:

D.C. Official Code – the 2001 Edition of the Code, as amended.

Electronic Filing – as provided by the Office of Campaign Finance, the procedure by which filers may process required forms online through the world wide web at www.ocf.dc.gov.

Mass collections – the receipt of contributions by a committee, candidate or individual, at dinners, luncheons, rallies, and other fundraising events organized by a committee, candidate or individual, pursuant to D.C. Official Code, §1-1102.06(b)(6).

Mass sales – to make available for purchase by a committee, candidate or individual, at dinners, luncheons, rallies, and other fundraising events organized by such committee, candidate or individual, items in bulk such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials, pursuant to D.C. Official Code, §1-1102.06(b)(6).